



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 21, 2016
MAHS Docket No.: 16-003804
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 20, 2016, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly calculate the Petitioner's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner is an ongoing recipient of FAP and currently receives \$ [REDACTED] monthly in food benefits. Exhibit 4.
2. The Petitioner receives Supplemental Security Income (SSI) in the amount of \$ [REDACTED] monthly and a \$ [REDACTED] quarterly supplement from the State of Michigan for a total monthly income of \$ [REDACTED]
3. The Petitioner also pays rent in the amount of \$ [REDACTED] monthly and pays for telephone and electricity. The Petitioner does not pay for heating or cooling. The Petitioner also does not pay any medical insurance premiums. Exhibit 2.

4. On January 1, 2016, the Department increased the Petitioner's FAP to \$ [REDACTED] per month. Exhibit 4.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Petitioner requested a hearing to determine whether the Department correctly calculated his FAP benefits. The Petitioner's FAP budget for January 2016, the FAP EDG Net Income Results and the FAP – Excess Shelter Deduction were reviewed at the hearing. Exhibit 6. The Petitioner provided a Shelter Verification completed by his landlord, which was used by the Department to determine the Petitioner's FAP benefits. The Shelter Verification confirmed that the Petitioner's rent was \$ [REDACTED] and that he did not pay for heating or cooling as this expense was included in Petitioner's rent, but did pay for electricity and telephone. Exhibit 2. The Petitioner confirmed these amounts were correct at the hearing.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (January 1, 2016), pp. 1-4. The Department considers the gross amount of money earned from SSI in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (April 1, 2016), pp. 31-32. State SSI Payments (SSP) are issued quarterly in the amount of \$ [REDACTED] and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount (\$ [REDACTED]) as unearned income. BEM 503, p. 33; see RFT 248 (January 2015), p. 1.

In this case, Petitioner did not have any earned income; and there was no evidence presented that he had any dependent care, child support, or medical expenses over \$ [REDACTED]. The Petitioner was specifically asked if he paid Medicare Part B premiums, and it was determined he did not. Therefore, the budget properly did not include any deduction for earned income, dependent care expenses, child support, or medical expenses. Based on his confirmed one-person group size, the Department properly applied the \$ [REDACTED] standard deduction. RFT 255 (October 1, 2015), p. 1.

The deductions to income on the net income budget were also reviewed. Petitioner is the only member of his FAP group and is a senior/disabled/veteran (SDV) member of the group. BEM 550 (October 1, 2015), pp. 1-2. Groups with one or more SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$ [REDACTED]
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 1, 2015), p. 1; BEM 556 (July 2013), p. 3.

At the hearing, the FAP budgets were reviewed. The Petitioner confirmed that the amount of unearned income consisting of his SSI of \$ [REDACTED] monthly and the quarterly supplement received from the State of Michigan totaled \$ [REDACTED]. The Department correctly also deducted from the unearned income a standard deduction of \$ [REDACTED] which is the correct amount to deduct for an FAP group of one member. RFT 255. This left Adjusted Gross income of \$ [REDACTED] ($\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$).

In calculating Petitioner's excess shelter deduction, the Department considered and included Petitioner's \$ [REDACTED] monthly rental/housing expenses and \$ [REDACTED] for the telephone standard and a \$ [REDACTED] electric standard found in RFT 255 (October 1, 2015), p. 1. (Exhibit 6). The Department explained that Petitioner was no longer eligible for the \$ [REDACTED] heat and utility (h/u) standard in calculating the excess shelter deduction because he does not pay for heat as it is included in his rent. See BEM 554, pp. 16-19. A review of the excess shelter deduction budget and Department policy shows that the Department properly determined that Petitioner was eligible for an excess shelter deduction of \$ [REDACTED]. BEM 556, pp. 4-5; RFT 255, p. 1.

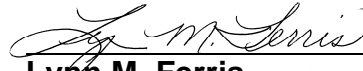
After further review, the Department properly deducted from the total housing expense of \$ [REDACTED] one half of the adjusted gross income or \$ [REDACTED] leaving an excess shelter deduction of \$ [REDACTED]. In determining monthly net income of \$ [REDACTED] the shelter expenses are deducted from 50% of the adjusted gross income. ($\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$). The excess shelter deduction of \$ [REDACTED] is then deducted from adjusted gross income to determine net monthly income. ($\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$). Based on net income of \$ [REDACTED] and an FAP group size of one, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for monthly FAP benefits of \$ [REDACTED]. BEM 556; RFT 260 (October 1, 2015), p. 8.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it is determined that the petitioner was entitled to \$ [REDACTED] in FAP benefits per month and that the FAP benefits were properly calculated.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

LMF/jaf



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

Petitioner

[REDACTED]

cc:

[REDACTED]